

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The term "thin" in claim 1 is a relative term which renders the claim indefinite. The term "thin" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

5. The term "imprisoned at least largely in said resin" in claim 1 is a relative term which renders the claim indefinite. The term "imprisoned at least largely in said resin "

is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. This term makes it unclear as to how much of the functional resin must be encompassed to be considered "at least largely".

6.

7. Claim 10 recites the limitation "a passage through the dose" in the last line. There is insufficient antecedent basis for this limitation in the claim. While the claim which this claim is dependant upon mentions a dose, it mentions that the dose has been formed into the object, there is no mention in the previous claim of the object containing a dose. In the interest of furthering prosecution examiner will treat it as "in that it contains an orifice forming a passage through the container".

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, 4-9 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kudert et al. (US 6,332,767).

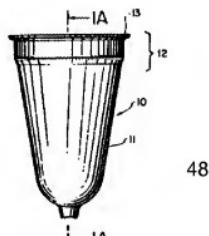
10. Examiner notes that the line "for the realization of multilayer objects by compression molding" is an intended use of the dose, and does not carry any weight regarding patentability. It has been determined that where a patentee defines a

structurally complete invention in the claim body and uses the preamble only to state a purpose or intended use for the invention, the preamble is not a claim limitation (See MPEP 2111.02 and *Kropa v. Robie*, 187 F.2d at 152, 88 USPQ2d at 480-81).

11. Examiner points out that claims 6-12 (of which only 6-9 and 11-12 are dealt with in this section) will be treated as product by process claims (for more information on product by process claims see MPEP 2113).

12. In regards to claims 1 and 5 Kudert et al. teach a parison (which correlates to Applicant's Dose), which comprises 2 outer layers which may or may not be the same (column 27 lines line 48- column 28 line 1), and 3 inner layers, one being a barrier layer and the other two, on either side of the barrier layer are adhesive layers (column 27 line column 28 line 19). Figures 1 and 1A show an example of this parison, and indicate that it would have an axis of symmetry, with 14 and 15

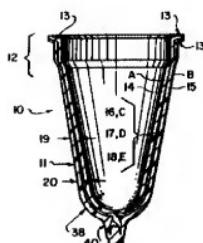
FIG. I



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FIG. 1A

representing the outer layers, C the barrier layer, and D and E the other two on the other side of the barrier layer.



13. In regards to claims 2 and 4 Figures 1 and 1A show that the parison has a concave surface, which has an opening which acts as the orifice (where an orifice is defined by dictionary.com (<http://dictionary.reference.com/browse/orifice>) as a mouth like opening or hole also Figs. 1 and 1A). It is also pointed out that

Kudert et al. teaches that these parisons are formed by Injection molding, which

involves heating the polymers (column 35 line 65 column 36 line 15). It is therefore inherent that at the time of their creation the polymers and therefore the parisons are in the melt state.

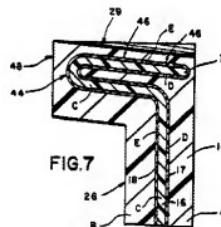
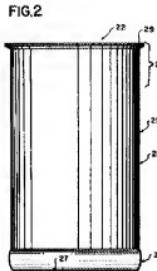
14. In regards to claim 6 Kudert et al. teach containers for the packaging of food which requires low oxygen and moisture permeability (column 1 lines 30-40).

15. Kudert teaches an embodiment wherein the container comprises a structure layer and a barrier layer embedded within the structural layer (column 122 line 5-10 and column 7 line 52 column 8 line 7).

16. In regards to claim 6 Kudert et al. teach an embodiment wherein the article is a can shaped container (Fig. 2), and teach that the barrier layer (in this case the functional layer) has a fold in it (Fig 6 and 7).

17. In regards to claim 7 since the object is symmetrical and a body of revolution can be defined (and is being defined by Examiner) as any body that can rotate around the axis of symmetry, then the functional layer, would also be symmetrical around the axis of symmetry and would be able to rotate around said axis by rotating the container about the axis of symmetry.

18. In regards to claim 8 and 9 Fig 2 is an open container, and as shown in Fig 2 the opening, as it is in can shaped objects, is centered around the axis of symmetry (Fig. 2 and column 19 lines 37-38), and therefore the body of revolution is open.



19. In regards to claims 11 and 12, Fig. 2A shows an embodiment wherein the object is closed by a cap, which eliminates the orifice, and makes the object closed around the axis of symmetry (Fig. 2A and column 19 lines 39-40).

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

21. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kudert et al. (US 6,332, 767).

22. As stated above Kudert et al. teach parisons with a concave surface and articles which have a folded barrier layer within, however they are silent regarding parisons or articles in which the orifice forms a passage through the article.

23. Kudert et al. teach that this invention is for forming "containers as broadly meant" (column 28 lines 35-37). This would include pipes, which would have an orifice which forms a passage through said article. One would be motivated to form pipes from this articles to fit that which needs to be stored or to fit the needs of transferring that which needs to be stored from one container to another. It would be well within the ability of one of ordinary skill in the art to form a parison of the referenced invention with an orifice that forms a passage way through said parison, and further turning said parison into a pipe like container.

24. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Schaftingen (US 6,808,673).
25. Van Schaftingen teaches a method of making hollow bodies of a multi layer thermoplastic nature, and the articles themselves (column 1 lines 7-9). Van Schaftingen teaches that the articles have a concave surface to them (column 3 lines 1-10).
26. In regards to claims 13 and 14 Van Schaftingen teaches that the articles are made by a coextrusion (column 2 lines 38-45) method wherein the thermoplastic layers are extruded into a mold, wherein the mold starts out rectilinearly and then narrows, which would form the concave surface (claim 1).
27. While Van Schaftingen is silent regarding the means for forming the concave surface they are silent regarding the molds in this case sliding inside the pathway. However it would be obvious to one of ordinary skill in the art at the time of the invention to call the rectilinear part of the mold the passageway, and the narrowing part the means for forming the concave surface, as they are attached it is an obvious variant of one sliding into the other.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Langecker US (4,883, 630) also teaches blanks or parisons or

molds with a concave surface, and could have been used as a 102 or 103 for the article and claims. In regards to the X references on the search report. Examiner was unable to obtain a translation of the documents FR 2 528 253 and 2 299 957. The US documents 4,154,893, 2002/182351, 4,419,412 and 5,110,519 all teach articles with one resin encased in another and methods for making said multilayer articles but are silent with regards to concavity. In regards to EP 0 468 261 teach articles wherein one layer is enclosed in another and teaches methods involving carrying the size of the cavity and the resin flow, but again is silent regarding concavity.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIK KASHNIKOW whose telephone number is (571)270-3475. The examiner can normally be reached on Monday-Friday 7:30-5:00PM EST (Second Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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